

Cleveland State University, Center for Election Integrity

Thank you for the invitation to speak today at Cleveland State University's Center for Election Integrity. It is my pleasure to be here.

I am grateful for the opportunity to talk to you about the Help America Vote Act of 2002, or "HAVA." As Chairman of the Committee on House Administration that has jurisdiction over federal election laws, I was proud to be able to play a part in writing this important legislation.

This bi-partisan bill was coauthored in the House by Congressman Steny Hoyer, (D-MD) and in the Senate by Senators Chris Dodd (D-CT) and Mitch McConnell (R-KY). Senator Kit Bond (R-MO) also played a vital role.

The problems experienced during the 2000 Presidential election in Florida spurred the Congress to make some changes to how elections are conducted in this country.

But HAVA was about more than just Florida. As we looked at elections around the country, we realized that many states experienced similar problems and changes had to be made. HAVA was passed to make those changes, and to provide the states with some assistance in making them.

I understand that part of this Center's mission is to "ensure that all citizens trust that their elections are fair, lawful and accurate."

That is also the mission of HAVA: to ensure that our citizens' can have confidence that our elections are being conducted fairly and accurately. Kit Bond used to always say our goal was to make it "easier to vote and harder to cheat". We want every eligible citizen to be able to vote, and vote only once. And when the election is over, we want them to have the confidence that their votes were properly recorded, and not cancelled out by an illegal vote.

We walked a fine line in crafting HAVA. The administration of elections has traditionally been, and should remain, the responsibility of state and local officials.

State and local officials are more familiar and knowledgeable about what voting procedures work well for their citizens.

What works in one state may not work well in another state. An election practice that works well in Brooklyn, NY or Cleveland, OH - may not work so well in Lincoln, Nebraska or St. Clairsville, OH.

While we did not want to federalize the system and have a federal bureaucracy devising one size fits all solutions for a country as large and diverse as ours, we recognized that some federal requirements had to be in place that all states would have to meet.

The Help America Vote Act struck the right balance: it set federal standards to ensure the integrity of our elections while also respecting the important role that states play by leaving many of the important details of election administration to state and local officials.

The Help America Vote Act made the following improvements to our federal election system:

- To improve voting system accuracy, it set forth standards to ensure that voters have the opportunity to review their ballots and make changes, if necessary, before they are cast and counted. This will cut down on the "hanging chad" and overvote problems by giving voters a chance to make sure they have marked their ballot correctly before casting it.
- To expand access for voters who have a form of a disability, each polling place must have at least one machine that allows persons with disabilities to vote in a private and independent manner.
- Requires that individuals be permitted to vote provisionally in the event that their names are not listed on the polling place's list of eligible voters. This will allow voters whose eligibility is in question to vote a provisional ballot, instead of simply being turned away. The states then verify and count eligible votes pursuant to state law.
- Requires that states create a statewide voter registration database. This will eliminate duplicate registrations, ensure a more accurate list of eligible voters and prevent voter fraud.
- HAVA also requires that first-time voters who register by mail must present proof of identity at some point in the voting process. That proof may be a drivers license, a bank statement, a utility bill, or some type of government document that shows that person's name and address.

To help states meet these requirements, HAVA authorized \$3.9 billion dollars of federal funds. To date \$3 billion dollars have been appropriated - an unprecedented federal contribution to help states with their elections.

Prior to HAVA, states had always had to bear the cost for running election themselves. Too often, day to day funding priorities like roads, schools and health care crowded out spending on election equipment and services. These federal dollars will help ensure that our democracy gets the funding it needs to function.

Ohio has received over \$130 million in HAVA funding to improve the administration of its elections.

While I am very proud of the \$3 billion we have appropriated, we still have about \$800 million we need to get appropriated to meet the authorization level. I am committed to working with my colleagues to see that we get these additional monies out to the states.

To further help the states meet these requirements, HAVA created a new Commission, the Election Assistance Commission, or "EAC". The EAC is responsible for distributing the HAVA monies to the states. It also serves as a clearinghouse for information on best practices for administering elections, and is responsible for the development of voluntary voting systems guidelines.

The name of this commission is no accident - its purpose is to assist states - not to direct them. The requirements of HAVA are spelled out in the law, we did not want a federal agency to be expanding on those requirements or issuing regulations that would bind the states. The EAC has no rule-making power - its purpose is to provide guidance and assistance to states as they strive to meet the HAVA requirements.

The 2004 election was the first federal election to be conducted under HAVA's requirements. Some provisions do not go into effect until January 2006, but the provisional balloting and ID provisions were in effect last November.

The positive effects of HAVA were already felt in 2004 because of the provisional ballot.

An EAC survey of states that offered provisional balloting found that 1,901,591 provisional votes were cast and 1,225,915 were counted.

That's over 1.2 million votes that were counted in the last election that would have been lost, the people would have just been turned away at the polls, were it not for HAVA.

There was some controversy over the way in which HAVA's provisional balloting requirements were implemented in some states.

Many states, including Ohio, required that provisional ballots be cast in the correct precinct to be counted. This led to several lawsuits seeking to require provisionals be counted wherever cast. These lawsuits were properly rejected by federal courts. The precinct system allows states to plan for and control ballot distribution and counting, and HAVA did not require states to abandon this system.

I'd like to speak a few minutes about some of the HAVA requirements in more detail.

The January 2006 deadline for the implementation of HAVA-compliant voting systems also applies to the creation of the statewide voter registration database.

We included this requirement in HAVA because voter registration rolls were widely recognized as being inaccurate or out-of-date: voters were registered in more than one location, voters who were deceased were still on rolls, or a voter's registration was not properly transferred when that voter moved.

Because voter rolls were maintained at a local level, there was no way for local boards of elections to cross-match or coordinate their lists with other jurisdictions in the state.

In order to bring some uniformity and consistency to this process, HAVA requires that each state assemble a single, centralized statewide voter registration database. That list must contain the name and registration information of every registered voter in the state. HAVA also requires that the list be coordinated with other agency databases in the state in order to ensure its accuracy.

I believe that the statewide database will improve the administration of our elections by preventing duplicate or fraudulent registration but also by promoting greater accuracy in the registration process.

As our registration systems are improved, the need for provisional ballots will decline - as the list will more accurately show who is in fact registered.

In addition to the statewide database, the identification requirements included in HAVA will also prevent fraud and promote greater accuracy in our elections without discouraging eligible citizens from voting.

HAVA's identification requirements are twofold:

- Individuals registering to vote in federal elections must include their social security number, driver's license number or other state identifier on their applications.
- Voters who register by mail who have not previously voted in a federal election in a jurisdiction must present a valid photo identification (such as a drivers license or state ID) or a current utility bill, bank statement, government check or other government document that shows the name and address of the voter.

With regard to identification requirements, there has been a great deal of debate at the state and federal levels about photo identification requirements.

Recently, my Committee held a hearing in Milwaukee, Wisconsin to discuss the problems that occurred there during the 2004 Presidential election. For instance, Milwaukee alone, there were approximately 4,000 more ballots cast than individuals recorded as voting in that election.

In response, the Wisconsin state legislature passed legislation requiring voters to present photo identification in order to prevent fraudulent or double voting. The Wisconsin governor has vetoed this legislation three times and the legislature has failed to override his veto.

Again, HAVA does not require photo identification to vote, but since its ID requirement is a minimum standard, states are free to expand upon it.

A report issued this fall by the Carter-Baker Commission on Election Reform endorsed a photo identification requirement.

The Commission noted that even a small amount of fraud can change the outcome in close elections. A photo identification requirement may help prevent people from voting in the name of another, or voting more than once, and thereby reduce the opportunity for fraud.

In order to ensure that voters who do not have drivers licenses would not be discouraged from voting, the Commission recommended that exceptions be made to the identification requirement for individuals who do not drive, and that the ID be readily available and provided free-of-charge.

Legislation has been introduced in both in the House and the Senate to require photo identification to vote, or to narrow the types of proof of identity that can be presented.

One of the most important improvements made by HAVA has been its requirements with regard to individuals with disabilities.

Voting systems must allow these voters to vote, review and correct their ballot privately and independently.

When drafting HAVA, we heard testimony from several individuals about how difficult it was for them to vote. Often, a polling worker or family member was forced to read them their ballot out loud and record their vote for them - which obviously prevented them from being able to cast their votes privately as other individuals are able to do.

The disabled have been among the strongest supporters of HAVA, and we hope that its provisions will afford them every opportunity to vote independently and privately for years to come.

My remarks would not be complete if I did not address one of the more controversial issues in Congress and in the states - the debate over whether electronic voting systems should be required to produce a "paper receipt".

As I said when we began, the goal of HAVA was to improve our election system. For many jurisdictions, this meant getting rid of their antiquated voting technologies. Jurisdictions that had been using punch card or lever systems, in particular, saw the funding provided by HAVA as an opportunity to upgrade their systems - in many cases to direct recording electronic, or DRE, systems.

Many jurisdictions also saw DRE's as a good option for meeting the law's requirements for disability access, as DRE systems can be readily adapted to allow voting by persons with disabilities.

It should be made clear that HAVA did not require states to acquire DRE systems. The bill set certain requirements that voting systems must meet, but it did not specify which system had to be acquired to meet them. Some states have used HAVA money for optical scan systems that are paper based.

There are currently being developed optical scan systems equipped with mechanized markers and headphones to allow the blind to vote on them. Vermont has deployed a system that allows the disabled to vote using a telephone. These are all exciting and promising options, and demonstrate the wisdom of HAVA in setting standards but leaving it to states to determine how best to meet them.

Some states, Georgia for example, have adopted fully electronic, paperless systems and have been very pleased with the results. At a hearing last year at our committee, testimony revealed that after converting to its new system the error rate in Georgia dropped from 4.8 to .87 - which translates into 71,000 votes captured by the new system that would have been lost under the old. Clearly, electronic systems hold out the promise of making our elections far more modern and accurate.

That being said, many concerns have been raised about the security of electronic systems. 25 states, Ohio among them, now have laws on their books that require their voting machines to have the capability of producing a paper ballot, also known as "VVPAT" or voter verified paper audit trail, in time for the 2008 federal election.

On the federal level, several bills have been introduced in Congress to require that electronic voting machines produce a paper ballot or receipt. This is not a partisan issue. There are democrats and republicans who have supported a paper trail requirement, and there are democrats and republicans who have opposed it.

I, and the other authors of HAVA, have expressed concerns about adopting a federal "paper trail" requirement at this time. Among these concerns:

- Advocates for the disabled have resisted a VVPAT requirement, fearing it could potentially infringe on their rights to vote privately and independently.
- Potential problems associated with paper trail systems - such as paper jams when printing ballots and excessive wait times to vote - could result in disenfranchising voters or increased election administration problems.
- Voting system technology is constantly evolving and improving. Already, other methods of voting verification, such as screen snapshots, encryption, and audio recording, are being tested. Setting a federal requirement for paper verification could stifle this progress to newer and better systems.
- In addition, paper trail systems are largely untested.
- On a nationwide level, there is very limited experience with Direct Recording Electronic ("DRE") voting systems that feature a paper trail component.
- Only one state, Nevada, has utilized them in a federal election.
- Before making one particular method of voting verification a national requirement, I believe it is essential that these systems be tested in other jurisdictions during future elections so that we may analyze the evidence regarding the success or failure of the VVPAT component, the reactions of voters, and the experience of poll workers and state election officials.
- I think the paper trail debate is proceeding, in a sense, the way it should. Almost half the states have decided to require paper ballots. Many are using HAVA money to acquire systems with this capability. The states have tailored their requirements to their election administration systems and the needs of their states. At the federal level, we will learn from their experience and determine whether a federal paper ballot requirement is necessary, or whether this is an issue best left to the states.
- Bottom line - lets see how these paper systems work before we even consider making them a national requirement.

Let me conclude by saying a few words about the prospects for future changes to our election laws in Congress.

I sometimes feel like I may be the only Member of Congress who has not introduced a new bill to rewrite our election laws.

Many of the bills that have been introduced revisit issues we debated while drafting HAVA. Bills have been introduced by Members on both sides of the aisle.

My position on all these bills has been the same - that we ought to give HAVA a chance to work before we consider amending it.

The deadline for full implementation of HAVA is almost upon us - January 1, 2006.

Many states are still struggling to meet that deadline - to get compliant systems in place before the elections that will take place next year.

My committee has had a number of hearings to see how HAVA implementation is going - and we will be having more next year.

We need to recognize that HAVA required major and important changes that states, and voters, are still adjusting to, and will still be adjusting too even after January 2006. We need to see how that law is working, what its strengths and weaknesses are, before we can really effectively judge what if any changes should be made to our federal law.

I do not think we will serve our country well if we fall into a pattern of rewriting our election laws every 4 or 6 years based on perceptions of how one provision or another may have harmed or benefited the prospects of a particular party in a recent election.

HAVA was a tremendous example of bi-partisan consensus on needed reforms. It has had great effects and those effects are still being realized.

Let's give it a chance to work, let's see what if any additional changes are necessary, and then let's proceed very carefully before deciding if additional changes are needed.

The administration of elections by state and local officials is one of the

great strengths of our democracy and it must preserved. Let's give those officials the time they need to do their important work, before we consider putting new federal requirements on them.

My work on HAVA is one of my proudest accomplishments in Congress. I will continue to monitor its progress and will carefully consider new proposals for reform.

I thank you all for your interest in these very important issues, and appreciate the opportunity to address you here today.

Thank you very much.